

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Evans et al.)	Group Art Unit: 3715
)	
Application Serial No.	10/823,829)	Examiner: Chyn, A.
)	
Filed:	April 14, 2004)	Attorney Docket No. CHORUS-P007-01
)	
For:	HUMAN CAPITAL)	Confirmation No. 5642
	MANAGEMENT ASSESSMENT)	
	TOOL SYSTEM AND METHOD)	

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal of the Final Official Action dated January 19, 2011 issued in respect of the above-identified application, finally rejecting claims 1-4 and 9-28. The pending claims are provided in the attached claims appendix.

I. Real Party in Interest

The real party in interest is Chorus, Inc., 238 South Meridian St., 4th floor, Indianapolis, IN 46204.

II. Related Appeals and Interferences

There are no known related appeals or interferences pending.

III. Status of Claims

Allowed claims:	None
Claims objected to:	None
Claims withdrawn:	None
Claims cancelled:	5-8, 18, 22, 27-28

Claims rejected: 1-4, 9-17, 19-21, 23-26

Claims appealed: 1-4, 9-17, 19-21, 23-26

IV. Status of Amendments

An amendment is filed herewith that cancels claims 18, 22, and 27-28.

V. Summary of Claimed Subject Matter

The following explanation of the subject matter defined in each of the independent claims is provided with reference to page, paragraph, and line numbers in the specification, and the drawings by reference characters as required by §41.37(c)(v). These references are made to a specific embodiment(s) disclosed in the application and do not limit the scope of the independent claims to the specific embodiment(s) and should not necessarily be considered to be exhaustive.

A. Claim 1

The subject matter defined in claim 1 relates to an analytical method of providing human capital management information. The method comprises the step of providing a plurality of individual capability tests to rate a plurality of competencies of an individual 10. "The flow chart diagram of FIG. 1 generally shows the methodology of the present invention. In testing step 10, a plurality of individual capability tests (or "battery") are administered to the individual, each test having a plurality of questions." para. [0024]

The individual capability tests each have a plurality of questions used to assess a plurality of attributes associated with at least one of the plurality of competencies. "Instruments considered for a battery relate to individual capabilities that meet a specific focus of the intended Hallmark evaluation." para. [0025]; "Capabilities may include a plurality of individual characteristics. In the exemplary embodiment dealing with capabilities relating to leadership, the following capabilities or competencies, inter alia, are relevant: Integrity, Continuous Learning, Speed/Initiative, Energized Team-building, Quality/Customer Oriented, Extraordinary Results, Effective Communication, Financial Literacy, Strategic Focus, and Emotional Maturity. A battery of tests are identified that have questions that relate to one or more of these capabilities." para. [0026]

Each of the individual capability tests is a standardized measure of a psychological construct. "Using proven and validated Assessment Instruments to provide

data for the comprehensive evaluation of the present invention allows the invention's modeling to be implemented without requiring extensive statistical validation as the Assessment Instruments are independently evaluated prior to being selected for use with the methodology of the present invention." para. [0020]

The method further includes the step 20 of obtaining responses to the plurality of questions of each of the plurality of individual capability tests from the individual. "response gathering step 20 involves obtaining responses to the plurality of questions from the individual to be evaluated." para [0024]

The method further includes the step 30 of cross-referencing the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests. " With this information, an evaluator or a computer may proceed with cross-referencing step 30 which cross-references the responses to the several questions administered in testing step 10 according to a predetermined criteria (as described more fully below) to create a comprehensive individual capability evaluation." para [0024]

The method further includes the step of creating a comprehensive individual capability evaluation report that rates the plurality of competencies, the report being at least partially based upon the cross-referencing of the responses. "Cross-referencing step 30 may further include creating a plurality of hallmark analysis within the comprehensive individual capability evaluation." para [0024]

The method further includes the step of providing the comprehensive individual capability evaluation to the individual by at least one of a printed report, a computer file, or a display screen. "Third, the respondent or client receives and reads the Hallmark Analysis report and individual assessment Instrument reports, noting observations and questions." para [0038]

B. Claim 9

The subject matter defined in claim 9 relates to a computer readable medium, including operating instructions thereon such that when interpreted by a processor cause the processor to perform steps.

The steps include providing a plurality of individual capability tests to a user of the computer system to rate a plurality of competencies of an individual, the individual capability tests each having a plurality of questions used to assess a plurality of attributes

associated with at least one of the plurality of competencies, each of the individual capability tests being a standardized measure of a psychological construct. "In testing step 10, a plurality of individual capability tests (or "battery") are administered to the individual, each test having a plurality of questions." para [0024] "This system may be specifically constructed for the required purposes or it may comprise a general purpose computer as selectively activated or reconfigured by a computer program stored in the computer." para [0017] "Using proven and validated Assessment Instruments to provide data for the comprehensive evaluation of the present invention allows the invention's modeling to be implemented without requiring extensive statistical validation as the Assessment Instruments are independently evaluated prior to being selected for use with the methodology of the present invention." para. [0020]

The steps further include obtaining responses to the plurality of questions of each of the plurality of individual capability tests from the individual using the computer system. "The next step, response gathering step 20 involves obtaining responses to the plurality of questions from the individual to be evaluated. With this information, an evaluator or a computer may proceed with cross-referencing step 30..." para [0024]

The steps further include cross-referencing the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests, and creating a comprehensive individual capability evaluation report that rates the plurality of competencies. "With this information, an evaluator or a computer may proceed with cross-referencing step 30 which cross-references the responses to the several questions administered in testing step 10 according to a predetermined criteria (as described more fully below) to create a comprehensive individual capability evaluation." para [0024]

Finally, the steps include providing the comprehensive individual capability evaluation report to the individual by at least one of printing the report on paper, saving the report to a computer file, or displaying the report on a display screen. "Participating

individuals may take batteries and have access to their personal assessment information through a highly secure Application Service Provider (ASP) web portal. This interactive portal facilitates participants' ability to review their personalized development plans and take advantage of custom learning experiences." para [0040]

C. Claim 14

The subject matter defined in claim 14 relates to an analytical method of providing human capital management information. The method comprising the step of providing a plurality of individual capability tests, the individual capability tests each having a plurality of questions relating to attributes associated with at least one of the a plurality of competencies, each of the individual capability tests being a standardized measure of a psychological construct. "In testing step 10, a plurality of individual capability tests (or "battery") are administered to the individual, each test having a plurality of questions." para [0024] "This system may be specifically constructed for the required purposes or it may comprise a general purpose computer as selectively activated or reconfigured by a computer program stored in the computer." para [0017] "Using proven and validated Assessment Instruments to provide data for the comprehensive evaluation of the present invention allows the invention's modeling to be implemented without requiring extensive statistical validation as the Assessment Instruments are independently evaluated prior to being selected for use with the methodology of the present invention." para. [0020]

The method further includes the step of obtaining responses to the plurality of questions of each of the plurality of individual capability tests from the individual to be evaluated. "The next step, response gathering step 20 involves obtaining responses to the plurality of questions from the individual to be evaluated." para [0024]

The method further includes the steps of cross-referencing the responses relating to an attribute according to a predetermined criteria relating to the competencies and

creating a comprehensive individual capability evaluation report. "With this information, an evaluator or a computer may proceed with cross-referencing step 30 which cross-references the responses to the several questions administered in testing step 10 according to a predetermined criteria (as described more fully below) to create a comprehensive individual capability evaluation." para [0024]

The method further includes the step of creating an individual action plan document containing a listing of transformational activities for enabling the individual to improve identified competencies on the comprehensive individual capability evaluation. "Transformational outcomes step 40 next involves creating an individual action plan containing a listing of transformational activities for enabling the individual to improve identified areas on the comprehensive individual capability evaluation." para [0024]

Finally, the method further includes the step of providing the individual action plan document to the individual by at least one of printing the report on paper, saving the report to a computer file, or displaying the report on a display screen. "Participating individuals may take batteries and have access to their personal assessment information through a highly secure Application Service Provider (ASP) web portal. This interactive portal facilitates participants' ability to review their personalized development plans and take advantage of custom learning experiences." para [0040]

VI. Grounds of Rejection to be Reviewed on Appeal

Claims 1, 3, 9, 11, 13, 16, 21, and 23-26 are rejected under 35 U.S.C. §102(c) as being anticipated by U. S. Patent Publication No. 2002/0045154 to Wood et al., ("Wood").

Claims 2, 4, 10, 12, 14, 15, and 17-20 are rejected under 35 USC §103(a) as being unpatentable over Wood, in view of U.S. Patent No. 7,184,969 to Bonnstetter, et al. ("Bonnstetter").

Claims 1-4, 9-17, 19-21, and 23-26 are rejected under 35 U.S.C. §112 p.(1) as failing to comply with the enablement requirement.

VII. Argument

A. Claims 1, 3, 9, 11, 13, 16, 21, and 23-26: Wood

1. Claim 1

A reference does not provide an enabling disclosure for anticipation or otherwise where undue experimentation is necessary to arrive at the claimed invention.

To be enabled, the disclosure must provide enough detail so that any person skilled in the art can make and use the invention without undue experimentation. (MPEP 2164.01) This standard applies equally to a reference that purports to anticipate a claim as it does for enabling a patent claim. If the teachings of a reference do not teach each limitation of a claim, and undue experimentation would be necessary to take the teachings of a cited reference and transform them to arrive at the claimed invention, that reference can not anticipate the claimed invention. (See, *Impax Laboratories, Inc. v. Aventis Pharmaceuticals Inc.*, Case No. 07-1513 (Fed. Cir. Oct. 3, 2008)(Rader J.)).

Claim 1 is an independent claim. Claim 1 requires "providing a plurality of individual capability tests to rate a plurality of competencies of an individual." The Official Action states that such a limitation is taught by Wood. Wood states, "it makes possible the creation and delivery of content, advice, and people profiles determined from a user's responses to a series of personality tests" (emphasis added). The Official Action further states that "the system can also be used to find people with particular skills or competencies." While Wood posits that such a use would be possible, Wood fails to teach how such a use would be implemented or what steps would be taken to make such a system work. In sum, Wood fails to enable such use. A passing mention of possibility is not enabling. One of ordinary skill in the art would require undue experimentation to achieve such a use. Wood discusses use of the Kiersey Temperament Sorter, which does not output competencies. The alternative proposed by the Official Action is not one where one test could be substituted for the Kiersey Temperament Sorter to then automatically provide results regarding competencies as suggested by the Official Action. With no readable interchangeability and no disclosure as to how one would go about using Wood as suggested by the Official Action, Wood fails to provide an enabling disclosure for purposes of anticipating the present claims.

In the above cited case *Impax Laboratories, Inc.*, a proposed invalidating reference disclosed a broad formula that encompassed a huge number of compounds for the treatment of several diseases. The court held that undue experimentation would be needed to determine which specific compounds should be picked to treat a specific disease. Thus, the

broad un-enabled recitation could not be held to anticipate a claim to a specific compound that fell within the previously mentioned broad formula. This is analogous to the present case. Wood discloses a test, the Kiersey Temperament Sorter, and then paragraph 337 generally states that other competency models/tests could be used instead of the Kiersey Temperament sorter. Thus, like in *Impax* a general category of items is identified without direction to how to pick one that is specifically suitable to the claimed invention and the desired outcome thereof. Which test does the Official Action propose be substituted for the Kiersey Temperament sorter that will result in using capability tests to render competency ratings? In fact, the Official Action proposes no such test because the reference in Wood is only a general one. Indeed, much experimentation would be necessary to determine which, if any, substituted capability test would be able to be used to render the claimed competency ratings. Even further, how would any substituted test be used to render the claimed competency ratings? Wood provides no guidance. As held in *Impax*, the Official Action must not be permitted to cite an un-enabled general proclamation as evidence of anticipation. Accordingly, the rejection of claim 1 must be reversed.

Compounding the problem is that each independent claim discusses cross-referencing responses. Accordingly, even if one were to pick a suitable test from the list provided by Wood, which responses to which questions in the test are suitable for such cross-referencing? One of skill in the art could not pick up one of the cited tests and easily know which responses to cross reference to which outputs. Much experimentation would need to be performed to arrive at the proper subset of responses that are appropriate for cross-referencing to result in a meaningful output. The cross-referencing of the large number of responses to questions from a large number of tests to the various different outputs is a complicated task that involves a large amount of work for not only picking, but for validation as well.

The Official Action states that Applicant's reliance on *Impax* is improper. The Official Action notes that *Impax* held a reference non-enabling because a large number of possibilities were presented and undue experimentation would be needed to pick out the specific compounds that would work. The Official Action states that "Wood at Para. 306 mentions a large number of possible tests for module 3200B of Fig. 11." (Office Action p. 18-19, emphasis added) The Office Action then states "The examiner does not believe this an unduly large number of tests." (Office Action, p. 19) However, as pointed out above, this large number of test begets an even larger number of questions (by way of example, Applicant found the Kiersey Temperament Sorter – II test online

(<http://www.keirsey.com/sorter/instruments2.aspx?partid=0>) and it consisted of 71 questions). Wood at paragraph 306 cites "Keirsey Temperament Sorter, Enneagram, Skills Tests, IQ Tests, etc." ("etc." indicating that there are a large number of additional, unlisted, members to the listed group and the terms "Skills Tests" and "IQ Tests" being groups containing multiple tests). If we conservatively assume that "Skills Tests" and "IQ Tests" each includes only two tests, and that "etc." represents only two tests, this assumption results in eight tests disclosed by Wood (clearly, this is low in that there are many "Skills Tests" and "IQ Tests"). If the above discussed "Kiersey Temperament Sorter – II" test is representative of these tests, then this conservative estimate represents $(71 \times 8 =) 568$ questions. For any one competency, that is 568 potential questions that could be cross referenced to the rating of that competency. 568 items can be combined into $(568! \text{ (factorial)})$ permutations = (3.6×10^{1319}) groups. More simply, if we only consider the questions of one 71-question test (and the claims require at least two), that gives 8.5×10^{101} groups that can be formed from that 71 question test for one attribute. The claims state that a plurality of competencies are rated. Accordingly, the above numbers can be applied to each rated competency. Furthermore, cross-referencing is not as simple as simply placing a response in a group or not. Each response can be weighted with respect to its relevance to the attribute. This weighting provides an infinite number of potential cross-referencing possibilities. Applicant cannot fathom how the above numbers regarding the potential cross-referencing of responses would not be considered a large number of potential solutions that would require undue experimentation to dig through.

While the present claims have not gone to the specificity of an algorithm, the suggestion that one of skill in the art could read Wood and then be able to arrive at working device as claimed is unfounded.

The Examiner has noted that a reference is presumed to be enabled and stated that Applicant has failed to analyze the Wood reference in view of the Wands factors. Applicant notes that the Colquitt Declaration of 9/25/09 (attached) specifically discussed many of the Wands factors and found the Wood reference to be completely non-enabling with respect to the present claims. Dr. Colquitt discussed the breadth of the claims and the state of the prior art by noting that the claims are directed towards rating competencies through the use of capability tests and noting that Wood provided no such disclosure. Furthermore, using capability tests to rate competencies is not a predictable art. The ability to take questions from other capability tests that are each a standardized measure of a psychological construct and then being able to use those questions to generate a separate

indication of competencies is not a matter of just picking questions and mapping them to a new outcome. There is much experimentation necessary to determine what questions to use and how to use them.

Overall, Applicant submits that Dr. Colquitt's declaration of 9/25/09 explicitly details why one of skill in the art would find the Wood reference non-enabling with respect to the claims at issue. Furthermore, as noted, the Examiner is an electrical engineer by trade and does not have the years of training and experience in the areas of test development, test validation, and psychometrics. A professional having a degree in Electrical Engineering alone would not be one of skill in the art of test development, test validation, and employment personality testing. The Examiner's stated beliefs of the interchangeability of capability testing and competency testing due to his understood meanings of the words and definitions pulled from general sources cannot be held to trump the knowledge of Dr. Colquitt. Dr. Colquitt has examined the cited references, reviewed the standing rejections, and declared that there are many details missing therefrom that would prevent one of skill in the art from arriving at the claimed invention.

Nothing in Wood teaches using capability tests to render competency ratings

As previously noted, claim 1 requires "providing a plurality of individual capability tests to rate a plurality of competencies of an individual." Accordingly, claim 1 requires the use of a plurality of capability tests as input to output a rating of a plurality of competencies of an individual. In rejecting this claim, the Official Action cites Wood as measuring competencies. However, none of the citations provided by the Official Action teach that competency information is extracted from individual capability tests. In the art, "capability" and "competency" are not identical terms. This fact is explored in the submitted declarations of Dr. Alan Colquitt, one of skill in the art.

Claim 1 uses capability tests and outputs competencies. Paragraph 337 of Wood states that competency models/tests can also be used instead of the Kiersey Temperament Sorter and the system can be used to find competencies. This substitution would involve the input of a competency test to result in the output of "[finding] people with particulars skills or competencies," (at least according to the Official Action). Even if we assume that the Official Action's reading is correct, it is the input of competency tests and the output of competency, not the input of capability tests and output of competency as claimed. Accordingly, the rejection of claim 1 must be reversed. This argument applies equally to independent claims 9, and 14.

Wood is devoid of the production of a rating

Claim 1 requires "creating a comprehensive individual capability evaluation report that rates the plurality of competencies." Wood fails to teach outputting of a rating of competency. Wood makes the non-enabled statement that "the system can also be used to find people with particular skills or competencies." However, Wood fails to teach that a rating of competency is provided. Accordingly, the rejection of claim 1 must be reversed. This argument applies equally to independent claim 9.

Wood fails to provide a comprehensive report

Wood fails to teach "creating a comprehensive... evaluation report that rates the plurality of competencies... and providing the comprehensive individual capability evaluation to the individual." Wood states "the administrator can view the results via a series of reports." Also, the Official Action cites "employment matching report based on selection of traits, skills, and competencies to a potential employer, Para. 337; or career action plan to tell employee how to get along with boss, paras. 337 to 309." An employee matching report is not described as a comprehensive evaluation report that rates the plurality of competencies. Furthermore, such a report is described as being provided to an employer, not the applicant (the subject of the report). Also, a "career action plan to tell an employee how to get along with a boss" is not disclosed as a comprehensive evaluation report that rates the plurality of competencies. Accordingly, the Official Action fails to cite a comprehensive evaluation report that rates the plurality of competencies and fails to teach providing a comprehensive report to the individual. Accordingly, the rejection of claim 1 must be reversed. Similarly, claim 9 requires creating a comprehensive report including competency ratings. Claim 14 also requires creating a comprehensive report. Claim 9 also requires that the report be provided to the individual. Thus, the relevant arguments apply to each of those claims as well.

The Examiner repeatedly substitutes his judgment for that of one skilled in the art without justification for doing so

Throughout prosecution, Applicant has submitted declarations of Dr. Alan Colquitt. Dr. Colquitt is one skilled in this art area and has provided his background with his declarations to prove this point. Dr. Colquitt has repeatedly explained how the Official Action interprets the terms in the present claims and in Wood in a way that is inconsistent with how one of skill in the art would understand these terms. Two such examples are present in his second declaration. (explaining the differences between personality attributes

and temperament attributes, see p. 2; and explaining the difference between answering questions and taking a test, see p. 2-3) However, the Official Action continues to ignore the interpretation of one skilled in the art and provides no basis for showing that one skilled in the art would not make the interpretations provided by Dr. Colquitt. It is inappropriate for the Official Action to supplant its own judgment on interpretation of terms over the interpretation of one skilled in the art. This is especially true when the Official Action fails to show fault with Dr. Colquitt's interpretation, only ignoring it. Dr. Colquitt has consistently provided illumination as to why one of skill in the art would not be able to read the Wood reference and use it to practice the presently claimed invention. For this additional reason, the current rejections must be overturned.

The Examiner's comments state that the meaning of the terms of "competency, capability, and cross-referencing" have not been sufficiently developed in the claim language. Again, applicant notes that this perceived lack of development is due to the Examiner not being of the level of skill in the art. Dr. Colquitt is of skill in the art, readily understands these terms, and notes that they provide a meaningful difference between the claims and the cited art. There is no justification for ignoring the statements of one of skill in the art and substituting the Examiner's judgment over the judgment of one of skill in the art. Thus, the Official Action is again off base.

2. **Claim 9**

As previously noted, some of the above arguments made with respect to claim 1 apply to claim 9 also. Notably, the fact that Wood is not enabled with respect to the way the Official Action is attempting to apply it causes Wood to fail to be an anticipatory reference with respect to claim 9. Also, claim 9 requires "providing a plurality of individual capability tests to a user of the computer system to rate a plurality of competencies of an individual." As discussed with respect to claim 1, Wood fails to teach that competency information is extracted from individual capability tests. Additionally, claim 9 requires "creating a comprehensive individual capability evaluation report that rates the plurality of competencies." As noted with respect to claim 1, Wood fails to teach that a rating of competency is provided. Thus the rejection of claim 9 must be reversed.

3. **Claim 14**

As previously noted, some of the above arguments made with respect to claim 1 apply to claim 14 also. Notably, the fact that Wood is not enabled with respect to the way the Official Action is attempting to apply it causes Wood to fail to be an anticipatory

reference with respect to claim 14. Additionally, claim 14 requires creating a comprehensive report. As noted with respect to claim 1, Wood fails to teach that providing a comprehensive report. Thus the rejection of claim 14 must be reversed.

4. Dependent claims

The balance of claims rejected over Wood depend from one of the independent claims discussed above. Because each of the independent claims is allowable, these dependent claims are also allowable.

B. Claims 2, 4, 10, 12, 14, 15, 17, and 19-20: Wood in view of Bonnstetter

Claims 2, 4, 10, 12, 14, 15, 17, and 19-20 all depend from one of the independent claims discussed above. Because each of the independent claims is allowable, these dependent claims are also allowable.

Additionally, with respect to the rejection of claim 2, the Official Action cites Figs. 7E, 8E, 9E, and 10E of Bonnstetter as teaching "a cross-referencing step includes creating a plurality of hallmark analysis ... relating to a specific quality of the individual." Applicant notes that the cited figures of Bonnstetter do not show the cross-referencing of multiple tests. Rather, the figures show surveys that ask people what qualities are important for a certain job. They are not rating the qualities present in an individual. Furthermore, the surveys are not a product of cross-referencing responses from a plurality of tests.

C. Claims 1-4, 9-17, 19-21, 23-26; §112(1)

Claims 1-4, 9-17, 19-21, 23-26 are rejected under §112(1) as failing to be enabled. Each independent claim contains language similar to the language of claim 1 stating "providing the comprehensive individual capability evaluation to the individual by at least one of a printed report, a computer file, or a display screen."

The specification is replete with disclosure that the present invention involves a computer and computer processing with respect to generating a report. Paragraph [0038] of the present application states "the respondent or client receives and reads the Hallmark Analysis report and individual assessment Instrument reports, noting observations and questions." Accordingly, it is clear that the computer generated report is presented to a user.

The Office Action states that given the statement in Paragraph [0038] and reading the claim language that one of skill in the art would not be enabled to present the

report to a user by either printing the report, saving the report as a file, or allowing the user to view the report on a display of the computer. These three functions (printing, saving, displaying) are readily understood to be common tasks associated with computing generally. One of skill in the art easily understands these three claimed ways of presenting a computer report to a user.

The Official Action admits that certain of these structures may be inherent in the cited computers, indeed they are. Given a computer meeting all of the other limitations of the claim, one of skill in the art would be readily able to have that computer generate a report in printed form, as a computer file, or on a display screen. Also, while the rejection points out believed deficiencies, the rejection fails to state that there is a deficiency in enablement of structure for "saving the report to a computer file." Given that the claim language of "at least one of a printed report, a computer file, or a display screen," the clear support for creating computer files provides support for the entire limitation grouping. This deficiency was pointed out in the previous response. However, no remedy to this deficiency was made in the Final Office Action, and no response was provided that disputed Applicant's point on this matter. Applicant has thus rebutted the rejection of the Office Action. By failing to respond to this rebuttal, the Office Action has failed to make a prima facie case.

Conclusion

In view of the above, Applicants respectfully submit that the present application is in order for allowance and respectfully request the Honourable Board of Appeals to direct the withdrawal of the rejections of the Final Official Action and the issuance of a Notice of Allowance.

Respectfully submitted,

/Ryan C. Barker/

Ryan C. Barker

Reg. No. 47,405

Attorney for Applicants

RCB

BAKER & DANIELS LLP
300 North Meridian, Suite 2700
Indianapolis, IN 46204
Telephone: 317.237.8690

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CLAIMS APPENDIX

Listing of Claims

1. (Previously Presented) A computer program product, comprising a computer usable medium having non-transitory computer readable program code embodied therein, said computer readable program code adapted to be executed to implement a method for generating a report, said method comprising the steps of:

obtaining responses to a plurality of questions of each of a plurality of individual capability tests from the individual, the individual capability tests providing for the rating of a plurality of competencies of an individual, the individual capability tests each having a plurality of questions used to assess a plurality of attributes associated with at least one of the plurality of competencies, each of the individual capability tests being a standardized measure of a psychological construct;

cross-referencing the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests;

creating a comprehensive individual capability evaluation report that rates the plurality of competencies, the report being at least partially based upon the cross-referencing of the responses; and

providing the comprehensive individual capability evaluation to the individual by at least one of a printed report, a computer file, or a display screen.

2. (Previously Presented) The product of Claim 1 wherein said cross-referencing step includes creating a plurality of hallmark analysis within the comprehensive individual capability evaluation report, each one of the plurality of hallmark analysis relating to a specific quality of the individual.

3. (Previously Presented) The product of Claim 1 wherein said plurality of questions relate to one of the set of competencies including: Integrity, Continuous Learning, Speed/Initiative, Energized Team-building, Quality/Customer Oriented, Extraordinary

Results, Effective Communication, Financial Literacy, Strategic Focus, and Emotional Maturity.

4. (Previously Presented) The product of Claim 1 further comprising the step of creating an individual action plan document containing a listing of transformational activities for enabling the individual to improve identified areas on the comprehensive individual capability evaluation report.

5-8. (Cancelled)

9. (Previously Presented) A computer readable medium, including non-transitory operating instructions thereon such that when interpreted by a processor cause the processor to perform the steps of:

providing a plurality of individual capability tests to a user of the computer system to rate a plurality of competencies of an individual, the individual capability tests each having a plurality of questions used to assess a plurality of attributes associated with at least one of the plurality of competencies, each of the individual capability tests being a standardized measure of a psychological construct;

obtaining responses to the plurality of questions of each of the plurality of individual capability tests from the individual using the computer system;

cross-referencing the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests;

creating a comprehensive individual capability evaluation report that rates the plurality of competencies; and

providing the comprehensive individual capability evaluation report to the individual by at least one of printing the report on paper, saving the report to a computer file, or displaying the report on a display screen.

10. (Previously Presented) The computer-readable medium of Claim 9 wherein the instructions further cause the processor to perform the step of creating an individual action

plan document containing a listing of transformational activities for enabling the individual to improve identified areas on the comprehensive individual capability evaluation report.

11. (Previously Presented) The computer readable medium of Claim 9 wherein said plurality of questions relate to one of the set of competencies including: Integrity, Continuous Learning, Speed/Initiative, Energized Team-building, Quality/Customer Oriented, Extraordinary Results, Effective Communication, Financial Literacy, Strategic Focus, and Emotional Maturity.

12. (Previously Presented) The computer readable medium of Claim 9 wherein said cross-referencing step includes creating a plurality of hallmark analysis within the comprehensive individual capability evaluation report, each one of the plurality of hallmark analysis relating to a specific quality of the individual.

13. (Previously Presented) The computer readable medium of Claim 9 wherein said providing step includes using an interactive computer server accessible over a computer network.

14. (Previously Presented) A computer program product, comprising a computer usable medium having non-transitory computer readable program code embodied therein, said computer readable program code adapted to be executed to implement a method for generating a report, said method comprising the steps of:

providing a plurality of individual capability tests, the individual capability tests each having a plurality of questions relating to attributes associated with at least one of the a plurality of competencies, each of the individual capability tests being a standardized measure of a psychological construct;

obtaining responses to the plurality of questions of each of the plurality of individual capability tests from the individual to be evaluated;

cross-referencing the responses relating to an attribute according to a predetermined criteria relating to the competencies;

creating a comprehensive individual capability evaluation report;

creating an individual action plan document containing a listing of transformational activities for enabling the individual to improve identified competencies on the comprehensive individual capability evaluation; and

providing the individual action plan document to the individual by at least one of printing the report on paper, saving the report to a computer file, or displaying the report on a display screen.

15. (Previously Presented) The product of Claim 14 wherein said cross-referencing step includes a step of creating a plurality of hallmark analysis within the comprehensive individual capability evaluation, each one of the plurality of hallmark analysis relating to a specific quality of the individual.

16. (Previously Presented) The product of Claim 14 wherein said predetermined criteria relates to one of the set of competencies including: Integrity, Continuous Learning, Speed/Initiative, Energized Team-building, Quality/Customer Oriented, Extraordinary Results, Effective Communication, Financial Literacy, Strategic Focus, and Emotional Maturity.

17. (Previously Presented) The product of claim 1 wherein said cross-referencing step includes cross-referencing by competencies the responses relating to a particular attribute to create a comprehensive individual capability evaluation report relating to the attributes.

18. (Cancelled)

19. (Previously Presented) The computer readable medium of claim 9 wherein said cross-referencing step includes cross-referencing by competencies the responses relating to a particular attribute to create a comprehensive individual capability evaluation relating to the attributes.

20. (Previously Presented) The product of claim 14 wherein said cross-referencing step includes cross-referencing by competencies the responses relating to a particular attribute to create the comprehensive individual capability evaluation report relating to the attributes, and said individual action plan document creating step includes creating an individual action plan document containing a listing of transformational activities for enabling the individual to improve identified attributes.

21. (Previously Presented) The product of claim 1 wherein said providing a plurality of individual capability tests step includes using attributes related to one or more of the following: Assertiveness, Creativity, Strategy, Motivation and Innovation.

22. (Cancelled)

23. (Previously Presented) The computer readable medium of claim 9 wherein said providing a plurality of individual capability tests step includes using attributes related to one or more of the following: Assertiveness, Creativity, Strategy, Motivation and Innovation.

24. (Previously Presented) The product of claim 14 wherein said providing a plurality of individual capability tests step includes using attributes related to one or more of the following: Assertiveness, Creativity, Strategy, Motivation and Innovation.

25. (Previously Presented) The product of claim 1, wherein the step of cross-referencing includes mapping a first question from a first test of the plurality of individual capability tests to a first competency of the plurality of competencies and mapping a second question from a second test of the plurality of individual capability tests to the first competency.

26. (Previously Presented) The product of claim 1, wherein the step of creating an evaluation report includes presenting an evaluation based solely on a first test of the plurality of individual capability tests, presenting an evaluation based solely on a second test of the plurality of individual capability tests, and presenting an evaluation of a first competency based on the cross-referencing of the responses to the first and second tests.

27-28. (Cancelled)

EVIDENCE APPENDIX

The first, second, and third declarations of Dr. Alan Colquitt are attached.

RELATED PROCEEDINGS APPENDIX

Applicant is not aware of any related proceeding having bearing on this matter.